

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-07 NSAE-00 EPG-02 FAA-00 L-03
SS-15 NSC-05 IO-13 /067 W
-----081205Z 113445 /41

P 081117Z JUN 77

FM AMEMBASSY LISBON

TO SECSTATE WASHDC 1709

C O N F I D E N T I A L SECTION 1 OF 2 LISBON 4516

E.O. 11652: GDS

TAGS: EAIR, PO

SUBJECT: CIVAIR - TWA ACCESS TO LAJES

REFS: A) STATE 119737 B) STATE 106883 C) STATE 19591

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SUMMARY: EMBASSY HAS RECEIVED MEMORANDUM FROM PORTUGUESE FOREIGN MINISTRY AUTHORIZING LIMITED TWA ACCESS TO LAJES. MEMORANDUM APPEARS TO BE ONLY PARTIALLY ACCEPTABLE, PARTICULARLY SINCE IT DOES NOT GRANT FULL 5TH FREEDOM RIGHTS. IF PROPOSED SOLUTION TO BE ACCEPTED AS BASIS FOR DISCUSSIONS, FURTHER NEGOTIATIONS WILL BE NECESSARY TO ACHIEVE 5TH FREEDOM. EMBASSY STRONGLY RECOMMENDS THAT TAP BE REMOVED FROM LIST OF FOREIGN AIRLINES THAT ARE NOT REQUIRED TO ATTAIN PRIOR CAB APPROVAL FOR OFF-ROUTE CHARTERS. END SUMMARY. END CONFIDENTIAL.
BEGIN LIMITED OFFICIAL USE

1. EMBASSY AS RECEIVED MEMORANDUM FROM PORTUGUESE FOREIGN MINISTRY AUTHORIZING LIMITED TWA ACCESS TO LAJES. FOLLOWING IS INFORMAL EMBASSY TRANSLATION:

BEGIN QUOTE: THE PORTUGUESE GOVERNMENT HAS CAREFULLY STUDIED THE DESIRE OF THE AMERICAN GOVERNMENT TO THE EFFECT THAT TWA BE AUTHORIZED TO USE THE LAJES MILITARY
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AIRPORT FOR STOPS ON REGULAR TRAFFIC SERVICES.
THE PORTUGUESE GOVERNMENT CONSIDERS THE AMERICAN GOVERNMENT'S DESIRE AS NOT FITTING WITHIN THE SCOPE OF THE AIR TRANSPORT AGREEMENT BETWEEN PORTUGAL AND THE UNITED STATES. THIS POSITION AGREES, AMONG OTHER THINGS, WITH THE ASSERTION CONTAINED IN THE AMERICAN EMBASSY'S MEMORANDUM OF FEBRUARY 7, 1977 WHICH STATES "THE PORTU-

GUESE GOVERNMENT WILL HAVE THE RIGHT TO DESIGNATE THE SANTA MARIA AIRPORT AS A POINT OF STOP, EITHER COMMERCIAL OR TECHNICAL, FOR ANY SCHEDULED SERVICE IT DOES NOT WANT TO OPERATE AT LAJES AIRPORT EXCEPT IF SPECIFIC RIGHTS HAD BEEN GRANTED IN LAJES BY BILATERAL AGREEMENT" WHICH IS NOT THE CASE INVOLVING THE AGREEMENT BETWEEN PORTUGAL AND THE UNITED STATES OR ANY OTHER COUNTRY. (COMMENT: EMBASSY NOT REFERRED TO WAS BASED ON REF C.) HOWEVER, TAKING INTO ACCOUNT THE ADVANTAGES WHICH TWA SERVICES IN LAJES WOULD BRING ABOUT IN TERMS OF BOTH CONVENIENCE TO AN IMPORTANT SECTOR OF THE PUBLIC AND TO STRENGTHENING OF RELATIONS BETWEEN PORTUGAL AND THE UNITED STATES, AND TO THE EXTENT THAT THOSE SERVICES MAY CONTRIBUTE TO MAKING TRAVEL FASTER AND EASIER BETWEEN CERTAIN ISLANDS IN THE AZORES AND LARGE NUCLEI OF LUSO-AMERICANS IN THE UNITED STATES, THE PORTUGUESE GOVERNMENT GRANTS AUTHORIZATION FOR TWA TO USE THE LAJES AIRPORT WITH A VIEW TO ITS PARTICIPATION IN TRANSPORTING THE CITED TRAFFIC.

BEYOND EXERCISING THE RIGHTS OF THIRD AND FOURTH FREEDOMS THUS AUTHORIZED, TWA MAY ALSO TAKE ON OR DISCHARGE ITS OWN TRAFFIC IN ACCORDANCE WITH THE "STOPOVER" FORMULA ("OWN STOPOVER TRAFFIC").

AS A FORM OF COMPENSATION FOR THIS AUTHORIZATION, TWA SHALL PUT AT THE DISPOSAL OF TAP, ON TERMS TO BE DISCUSSED BETWEEN THE TWO COMPANIES AND APPROVED BY THE DIRECTORATE-GENERAL OF CIVIL AERONAUTICS, THE VACANT SEATS WHICH TAP DESIRES TO USE IN TRANSPORTATION OF TRAFFIC BETWEEN LAJES AND LISBON. THAT ARRANGEMENT WILL PERMIT ASSURING CONFIDENTIAL

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A CERTAIN COMPENSATION IN RETURN FOR THE FACILITIES GRANTED AND THE MAXIMIZATION OF BENEFITS TO THE PUBLIC USING THE NEW TWA SERVICES WITHOUT PUTTING IN QUESTION THE PRINCIPLE RESERVING CABOTAGE TRAFFIC (ARTICLE 7 OF THE CHICAGO CONVENTION).

AUTHORIZATION IS GIVEN FOR AN INFEFINITE PERIOD OF TIME, SUBJECT TO TERMINATION AT ANY TIME. EXCEPT BY DECISION DERIVING FROM THE SPECIAL STATUTE OF THE LAJES MILITARY AIRPORT IMPOSING AN IMMEDIATE SUSPENSION OF CIVILIAN OPERATIONS, REVOCATION WILL BECOME EFFECTIVE ONLY AT THE END OF THE IATA PERIOD FOLLOWING THAT IN

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C O N F I D E N T I A L SECTION 2 OF 2 LISBON 4516

WHICH REVOCATION IS COMMUNICATED. END QUOTE.
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2. COMMENT: MEMORANDUM REITERATES PREVIOUS GOP POSITION TO EFFECT THAT U.S./PORTUGUESE BILATERAL DOES NOT ESTABLISH TWA RIGHT TO UTILIZE LAJES. MEMORANDUM DOES, HOWEVER, PERMIT OUR TWO GOVERNMENTS TO MAINTAIN THEIR LEGAL POSITIONS EVEN WHILE TWA OBTAINS ITS PRINCIPAL OBJECTIVE. GOP POSITION NEVERTHELESS APPEARS DEFICIENT IN SEVERAL RESPECTS. MOST IMPORTANT, IT DOES NOT GRANT TWA UNLIMITED 5TH FREEDOM RIGHTS. ATTRACTIVENESS OF LAJES OPERATIONS UNDER THESE CONDITIONS WOULD BE CLEARLY DIMINISHED IN THAT TWA PRESUMABLY WOULD NOT BE ABLE TO CARRY LAJES-BASED U.S. SERVICEMEN FROM/TO POINTS OTHER THAN THE UNITED STATES. IF USG IS TO INSIST UPON FULL 5TH FREEDOM, FURTHER DISCUSSIONS WILL BE NECESSARY. AS FIRST SIGNIFICANT STEP IN THAT DIRECTION, EMBASSY STRONGLY URGES THAT: 1) TAP BE REMOVED FROM LIST OF FOREIGN AIRLINES WHICH ARE NOT REQUIRED TO OBTAIN PRIOR CAB APPROVAL FOR OFF-ROUTE CHARTERS; AND 2) THAT NO ACTION BE TAKEN ON FUTURE CHARTER REQUESTS PENDING SATISFACTORY SOLUTION OF LAJES ISSUE.

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